

RESOLUTION No.

27712

Law Department

A RESOLUTION revising policies which govern
Mutual and Offsetting Benefit (MOB)
Lease Agreements between the City and
non-profit community and social service
agencies.

ADOPT Sibonga to 5/4/88

Introduced:	OCT 26 1987	By:	EXECUTIVE REQUEST
Referred:	OCT 26 1987	To:	Housing + Human Services
Referred:	Apr. 18, 1988	To:	Parks + Public Grounds
Reported:	MAY 9 1988		
Passed:	MAY 9 1988	Signed:	MAY 9 1988
Filed:	MAY 16 1988	Published:	OK

5-10-88-01-5

RESOLUTION 27712

A RESOLUTION revising policies which govern Mutual and Offsetting Benefit (MOB) Lease Agreements between the City and non-profit community and social service agencies.

WHEREAS Resolution 26209 established policies concerning MOB Lease Agreements; and

WHEREAS as requested in Resolution 26209, the Executive has adopted standard operating procedures and promulgated rules for administration of MOB Lease Agreements; and

WHEREAS through use and occupancy of City property under MOB Lease Agreements, non-profit community and social service agency tenants provide services that benefit the citizens of Seattle; and

WHEREAS the cash rent requirements for lease of City property, as determined in accordance with current policies and the MOB Rules, has become an undue financial burden on the MOB tenants, limiting and/or jeopardizing their ability to continue providing services to the citizens of Seattle; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE MAYOR CONCURRING:

The current policies regarding MOB Lease Agreements should be revised. The Council hereby requests that the Executive revise the MOB Rules in accordance with the following policy guidelines:

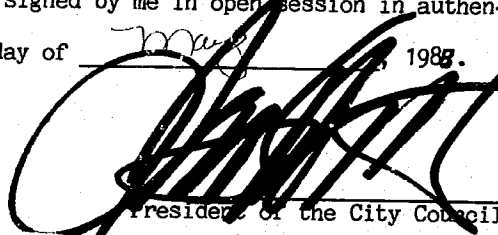
A. The cash rent payable by an MOB tenant in the first year of its MOB Lease Agreement shall equal twenty percent (20%), in the second year forty percent (40%) and in any year thereafter fifty percent (50%) of the City's administrative and major maintenance costs, as calculated according to the current MOB Rules.

B. There shall be an annual General Fund Appropriation to the Budget of the Department of Administrative Services equal to the remainder of the City's administrative and major maintenance costs.

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1 C. The value of community services provided by an MOB tenant shall be,
2 at a minimum, equal to the difference between the cash rent payable
3 and the property's fair market rent.

4 ADOPTED by the City Council of The City of Seattle this 9th day of
5 May, 1988, and signed by me in open session in authen-
6 tication of its adoption this 9th day of May, 1988.

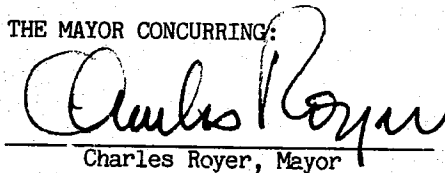
7
8 
9 President of the City Council

10 Filed by me this 16th day of May, 1988.

11
12 ATTEST: Norward J. Brooks
13 City Comptroller

14 By Margaret Canter
15 Deputy

16 THE MAYOR CONCURRING:

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18 Charles Royer, Mayor

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Attachment 1

Revised Annual Cash and Services Rent

Tenant	Fair Mkt Rent	Cash Rent		Services Rent	
		@ 100%	@ 50% *	@ 100%	@ 50%
CAMP	32,400	8,489	4,245	23,911	28,155
SPARC	19,200	6,654	3,327	12,546	15,873
Central Area Sr Ctr.	67,500	14,059	7,030	53,441	60,470
Pioneer Group Hm **	11,565	4,376	2,188	7,189	9,377
First AME **	<u>63,044</u>	<u>14,181</u>	<u>7,090</u>	<u>48,863</u>	<u>55,954</u>
Totals	\$193,709	\$47,759	\$23,880	\$145,950	\$169,829

* General Fund requirement also equal to this amount
 ** Effective 5-1-87

GP:mw:lir1

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RULES GOVERNING THE CITY'S MUTUAL AND OFFSETTING
BENEFIT (MOB) PROPERTIES

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Amended _____, 1987

By _____
George Pernsteiner
Director of Administrative Services

RULES GOVERNING THE CITY'S MUTUAL AND OFFSETTING

BENEFIT (MOB) PROPERTIES

C O N T E N T S

Rules Governing the City's Mutual and Offsetting Benefit (MOB) Properties	Page 1 - 8
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Lease Agreement (for information only)	Appendix D

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I. PURPOSE

The purpose of these rules is to establish the procedures for granting Mutual and Offsetting Benefit (MOB) status to an agency or organization and to standardize procedures for developing, negotiating, and administering MOB lease contracts.

II. ORGANIZATIONS AFFECTED

Organizations affected by these rules include:

- Department of Administrative Services
- Department of Human Resources
- Department of Community Development
- Mayor
- City Council
- Members of the MOB Selection Committee
- Potential and existing MOB agencies

III. RESPONSIBILITY

- A. The Department of Administrative Services will be the lead agency in a committee of appropriate City departments to recommend to the Mayor whether or not to grant MOB status to prospective agencies or organizations.
- B. The Department of Community Development and the Department of Administrative Services will be responsible for evaluating vacant City property and the needs of City departments to determine whether the property may be available for MOB usage.
- C. The Department of Administrative Services will develop, negotiate, and administer the MOB leases.
- D. The Department of Human Resources will evaluate, quantify, and assign a dollar value to the services to be provided by an MOB agency and will monitor the provisions of these services on a regular basis.
- E. All Mutual and Offsetting Benefit agencies will be responsible for fulfilling all lease requirements.

IV. MOB POLICY STATEMENTS

- A. The City of Seattle will attempt to provide useful and appropriate community services for which the City has legal authority to provide, through City departments or agencies or through the purchase of services from MOB agencies, or a combination thereof.

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- B. MOB agencies will be charged fair market rent for their use of City-owned property. However, only a portion of this must be paid in cash, while the remainder will be paid for by providing a predetermined amount of services to the public for the City.
- C. The City of Seattle will assume no responsibility for the operation of an MOB agency other than to provide building space at a reduced cash rate and to maintain the basic structural, electrical, and mechanical integrity of said space within the limits of the MOB Major Maintenance Reserve.
- D. MOB agencies may request services from The City of Seattle other than those specified in Section IVC of these Rules, but these will be provided only if the City's workload allows it and only on a reimbursable basis.
- E. Vacant City property will be available for MOB usage only if the City has a need for the property in the future but can't or won't utilize it immediately.
- F. Failure of an MOB agency to remit the cash rent payable, provide the required services, or maintain leased property in an acceptable state, all in a timely manner, consistent with the lease terms will be grounds for eviction.
- G. This policy will apply to all new applicants for space and all current MOB tenants who wish to renew their occupancy of space under MOB status. A lease agreement must be signed by both the City and the MOB agency before the agency is allowed to occupy the MOB property.

V. MOB PROPERTY GUIDELINES

- A. The City of Seattle will not act as a third party or sponsor to lease property or additional space for an MOB agency in any facility or on any property not specifically owned or controlled by the City of Seattle or Seattle School District #1.
- B. Properties available for MOB usage include only those held in the general fixed asset group of accounts that were acquired with monies from the General Fund, the Cumulative Reserve Fund, or the Seattle Model City Program Fund.
- C. All properties to be occupied by MOB tenants must first be evaluated by City officials to ensure the health and safety of their potential tenants, and a cost estimate that itemizes necessary repairs to meet fire and building code minimums shall be prepared by City architects, a copy of which shall be provided for the potential MOB occupant.

- D. A lease may not be negotiated unless a written agreement between the City and the prospective MOB tenant is reached concerning the funding of necessary repairs.
- E. The City shall have the option of appropriating funds to make repairs necessary for the facility to meet minimum building and fire code standards.
- F. If the City chooses not to make minimum code repairs on the property, it shall then be the responsibility of the MOB agency to do so at the agency's expense.
- G. As stated in the terms of the Lease Agreement, after occupancy of the premises by the MOB tenant, the City shall be responsible for all normal repairs to roofs, walls, and foundations, existing utility connections to and from the premises and major electrical, plumbing, and heating systems necessary to maintain the premises in a tenant-able condition.
- H. It shall be the agency's responsibility to apply for all zoning/use permits and any required variances.
- I. Under no circumstances may an MOB agency occupy a City-owned or surplus School District property leased by the City before necessary repairs have been completed.

VI. PROCEDURE FOR LEASING MOB PROPERTY

- A. When vacant City property becomes available for MOB usage, a Selection Committee shall be formed to determine MOB agency eligibility and to recommend tenant selection to the Mayor.
- B. Department of Administrative Services' Property Management Section shall place an advertisement announcing the MOB property availability in the City's official newspaper for five (5) days and other periodicals or publications as appropriate. The announcement shall include the address and a brief description of the property; information on how to obtain an application form; whom to contact for additional information; and an indication that selection of MOB tenants is subject to applicable rules governing the City's MOB policies. Upon request, DAS shall provide a copy of the City's "Procedure for Leasing MOB Property" to any interested agency.
- C. After an agency has obtained and completed an Application for MOB Eligibility (see Appendix C), it shall submit the form to the MOB Selection Committee which shall review the application and determine whether the agency qualifies for MOB status based on the criteria outlined in Section VII.

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- D. The Selection Committee shall inform all agencies in writing as to approval/denial of their Request for MOB Eligibility.
- E. Further consideration by the Selection Committee shall be given only to those agencies the MOB eligibility of which has been approved in writing. If an agency's Application for MOB Eligibility has been denied, the agency's request for tenancy will be given no further consideration.
- F. The Selection Committee shall evaluate the applications for tenancy of all MOB-approved eligible agencies on the basis of the value of physical improvements to be made to the particular City property by the potential MOB agency and the value of social, cultural, economic, health, and other services to be provided at no charge or reduced charge to City residents in exchange for tenancy in the City facility. Priorities established in the annual Block Grant Policy Plan and Executive Budget Priorities will be accorded weight in such an evaluation.
- G. Based on the recommendation of the Selection Committee, the Mayor shall select one or more of the MOB agencies to occupy the advertised MOB property and shall recommend to the City Council approval of a five-year lease negotiated between the City and the agency according to the terms stated in these Rules.
- H. As an alternative process, if a City objective may be met through the use of vacant City property by a specific agency, then the Mayor, or the City Council through the Mayor, may direct DAS to provide that agency with an Application for MOB Eligibility, which will be reviewed by the MOB Selection Committee. If the agency's MOB eligibility is approved, the Mayor shall recommend to the City Council approval of a five-year lease, in accordance with these Rules.

VII. MOB ELIGIBILITY CRITERIA

MOB agency selection will be based on the following criteria:

- A. The agency must be a private community or social service agency classified as nonprofit by the Internal Revenue Service.
- B. The agency must demonstrate that (a) it is unable to pay fair market rent in cash for the amount of space it requires to operate its program, or (b) the City, by another contract, has agreed to provide it the space for carrying out a City program and the space will be used for that purpose. The agency must provide if (a), a copy of its operating budget and disclose sources of revenue available for rent; or if (b), a reference to the applicable City contract.
- C. The agency must provide a public service that the City has legal authority to provide.

- D. The agency must show evidence that it has the capacity to provide the service at a specific level and cost per unit. The unit cost of the service to be provided must be comparable to the cost of similar services provided by other agencies.
- E. The proposed use should be an efficient and close-to-fulltime use of the property; i.e., preference would be given to an agency that proposed to utilize close to 100% of the floor space versus an agency that planned to use only 25%.
- F. The agency should demonstrate that the intended use would not require physical changes in the property that would detract from its value or unduly limit future uses of the property.
- G. The established priorities of the agency shall not be inconsistent with adopted City policies affecting the use of City facilities.

VIII. NEGOTIATING MOB LEASES

- A. The MOB lease negotiations and documentation will be implemented by a representative of the Property Management section of the Department of Administrative Services, assisted by the contact person in the MOB agency.
- B. The representative of the Department of Administrative Services will complete a lease document consistent with these rules and approved by the City Attorney. When the lease document is completed by the Department of Administrative Services, it is to be sent immediately to the MOB agency's contact person for a notarized signature by an appropriately authorized representative of the MOB agency. A cover letter bearing applicable special instructions will be sent along with the lease document. A copy of that letter will be sent to DHR to serve as notification that the lease has been sent to the MOB agency.
- C. It will be the MOB agency's responsibility to have the lease signed and returned to the Department of Administrative Services within thirty (30) days after receipt. It will also be the agency's responsibility to provide the necessary administrative details to the City's lease execution process including, but not limited to, copies of leasehold excise tax exemption applications and awards.
- D. Upon receipt of a properly executed lease, the Department of Administrative Services will submit same through the normal Council-authorized leasing process accompanied by a draft ordinance for signature by the City Council President and Mayor. When so authorized by ordinance, the lease will be signed by the Mayor. A copy of the executed lease will be provided to the MOB agency.

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IX. DETERMINING RENT OF MOB LEASES

- A. At least once every five (5) years, the Department of Administrative Services will order and receive a current appraisal report for all City-owned properties being used or expected to be used by MOB agencies. These appraisals will be performed by the City's staff appraisers or by qualified, professional members of the American Institute of Appraisers (MAI), and will address the following components:

Fair Market Land Value
Fair Market Improvements Value
Fair Market Rental Value

These values will be used to compute rent for MOB agencies.

- B. MOB agencies will be charged fair market rent for utilizing City-owned or surplus School District property leased by the City, but may pay for same in both cash and services.

1. Cash Rent

The cash rent portion of the fair market rent will be an amount necessary to cover the City's administrative costs for the property and to amortize major maintenance costs over a forty (40) year life cycle, which shall be calculated as follows:

Administrative Costs

For the purpose of this procedure, each MOB agency will be assessed an annual amount equal to the cost of two and one half (2-1/2) percent of the annual rate for a Real Property Agent position or its successor, (as published in the DAS Rate and Services Directory or its successor) to cover administrative costs. This flat rate will fluctuate annually depending on salary settlements and benefit adjustments, and the full amount will be assessed against each MOB, regardless of size.

Major Maintenance Costs

Major maintenance costs will be assessed at an annual rate of 2-1/2 percent of the fair market improvements value. The fair market improvements value will fluctuate annually, in an amount equal to the BOECKH index or its successor, or another similar index. In the event of multiple tenancy, major maintenance costs will be distributed proportionately according to the amount of space occupied by each. (Refer to Appendix E for a more detailed discussion.)

Delete CDBG
reference.

Leases will normally be negotiated for a five-year term. For its initial MOB lease with the City, an MOB agency will be responsible for timely payment of an increasing share of the rent in cash, as follows:

During the first year of the initial lease, the cash rent payable by the MOB agency shall equal 20% of the administrative and major maintenance costs, payable in equal monthly installments. During the second year, the cash rent payable shall equal 40% of the administrative and maintenance costs. In the third and subsequent years, the cash rent payable shall equal 50% of the administrative and major maintenance costs. DAS shall seek General Fund support equal to the remainder of the City's administrative and major maintenance costs.

For any leases other than an MOB agency's initial lease with the City, or if the MOB agency requests a move to another property during the term of the initial lease, the cash rent payable by the MOB agency will be fixed at 50% of the administrative and major maintenance costs.

If the City requires a MOB agency to move to different property during the term of the initial lease, administrative and major maintenance costs will be recalculated for the new property according to procedures described in this section. However, the percentage of cash rent payable by the MOB agency will remain at the level existing at the time of the move and will escalate normally according to the prior time schedule.

2. Service Rents

The services rent portion of the fair market rent will represent the difference between fair market rent and cash rent. It will appear as a dollar amount which will be the cash equivalent of services to be provided. Services provided in excess of this amount may not be used to offset any part of the cash rent, except as may be otherwise agreed by the parties with respect to the decreasing percentage of rent payable in services.

Since most MOB agencies are grant funded, the MOB service selected will be one for which the agency is not reimbursed under any existing City contract. MOB agencies may be credited for services for which they are not reimbursed and that are of benefit to the City. Such services may, but will not necessarily, include writing, printing and distributing newsletters; utilizing volunteers to conduct programs and/or classes; coordinating and conducting periodic community events; conducting workshops for clients, staff, outside, related agencies and/or the general public, or MOB agencies may provide more services than they are contracted to perform. The dollar value of the services will be at least equal to the difference between the cash rent paid by the agency and the property's fair market rent as determined by DAS.

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The Department of Human Resources (DHR) will be responsible for identifying the services provided by an MOB agency, which will constitute the services rent, as defined in the Glossary of these Rules. Identification of these services will be the result of discussions between DHR and the affected MOB agency. The goals of the MOB services will be identified in Part C -- Statement of Goals, of the MOB lease agreement. The value and amount of services provided by the MOB agency shall be re-identified each year and included in the 5-year lease as an addendum.

In calculating the value of the MOB services, DHR will apply the current market rate for similar services. Volunteer hours will be valued at current minimum wage rate, except when volunteers provide expert or professional services, the current wage rate for similar services will be applied.

The MOB services value required may also be met through the agency being reimbursed for less than the actual cost of the services or by the agency providing services in addition to those for which it is reimbursed. In cases where the actual cost of the service is greater than the reimbursement, the difference may be applied toward meeting the difference between the cash rent paid by the agency and the property's fair market rent as determined by DAS. In cases where the agency provides services in addition to that for which it is reimbursed, the actual cost of such services may be applied toward the value of services required.

DHR will calculate the dollar value of the MOB services to be provided by each agency. The number of service units times the dollar value of each service unit will be equal to or greater than the difference between fair market rent and the cash rent paid by the MOB agency. This information will be specified in Part C -- Budget, of the MOB lease agreement.

X. LEASE RENEWAL

Upon expiration of the initial 5-year MOB lease, the City may agree to issue a new lease. At that time, a new appraisal shall be performed on the property and the Fair Market Rent adjusted accordingly. As in the 5th year of the initial lease, the MOB agency shall be required in all subsequent leases to pay in cash 50% of the City's administrative and maintenance costs of the property. The value of Services Rent to be provided by the MOB agency shall be the difference between the Cash Rent and the Fair Market Value.

XI. MONITORING AND REPORTING PROCEDURES

Under the lease agreement, every MOB agency will be required to submit monthly service activity reports to DHR, indicating the level of service planned for the preceeding month versus the actual level of service provided during the period. DHR will monitor the service level and submit copies of monthly activity reports to DAS. DHR may provide technical assistance in the event the actual service level falls below that planned. However, it shall be the sole responsibility of the tenant to meet its service obligations. Failure to do so may be grounds for eviction.

XII. AMENDMENT OF RULES

The procedure for amendment of these Rules shall be in accordance with Ordinance 102228, the Administrative Code of the City of Seattle.

Appendix A

References

Ordinance 107634

Ordinance 102228, as amended by Ordinance 107903

Resolution 25410

Resolution 25609

Resolution 25723

Resolution 26209

Resolution 26358

Leasehold Excise Tax Provisions, RCW 82.29A

Internal Revenue Code

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Appendix B

Glossary

Mutual and Offsetting Benefits are created by an agreement for a mutual and equal exchange of value between the City providing property and certain non-profit, community, or social service agencies providing services; e.g., health, food, social, educational, recreational, cultural, or similar community services, to the public on behalf of the City.

The MOB Selection Committee shall determine MOB eligibility and shall recommend tenant selection to the Mayor. The Committee shall not be a standing committee but rather one whose membership shall change depending on the specific property proposed for MOB usage. The Director of Administrative Services shall chair the Committee and recommend Committee membership to the Mayor, who shall make final Committee selection from appropriate City departments. The Committee shall be formed each time property is available for MOB usage.

Surplus School District Property Leased by the City refers to old school buildings that are in whole or part surplus to the needs of the Seattle School District. Under these agreements, the City leases all or part of such properties and may then sublet all or part of this space to MOB agencies.

Fair Market Value is defined as ". . . the price a property will bring when offered for sale by one who desires but is not required to sell, and is sought by one who desires but is not required to buy, after due consideration of all of the elements reasonably affecting the value."¹ Part of the fair market rent legally required by the State Constitution for occupancy of the building may be paid for (i.e., offset) by the value of the agency's services provided to the public on behalf of the City. The remainder of the fair market rent is paid in cash by the MOB agency (and during the initial lease, by a General Fund appropriation) to The City of Seattle.

Fair Market Rent will be the rent equivalent of the term "Fair Market Value" defined above.

Cash Rent is that portion of fair market rent that must be paid in cash by the MOB agency.

Services Rent is that portion of fair market rent that is deliverable in the form of services on behalf of the City to the public. It is established as a dollar amount, and represents the minimum cash equivalent of services to be provided. MOB Major Maintenance Reserve will be the repository for that portion of the cash rent that is to be used for the funding of major maintenance expenses within buildings and other property improvements used by MOB agencies.

¹Washington Reports 2nd, Volume 31, page 556, which quoted 29A-CJS 567, Eminent Domain S 136.

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APPLICATION FOR MOB ELIGIBILITY
AND USE OF MOB PROPERTY

Name of Agency: _____

Address: _____

Phone: _____

Name of Agency Representative
or Contact Person: _____

Address: _____

Phone: _____

Name of Desired MOB Property: _____

Address/Location: _____

Description of Agency's Purpose, Goals, and Priorities:

Explanation of Services Currently Provided by Agency:

Explanation of Any Additional Services Agency Will Provide if MOB Tenancy is
Granted: _____

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Number of Employees in Agency's Workforce: _____

Number of Clients Served by Agency: _____ per month.

Description of Agency's Space and Facility Requirements:

Space Requirements: _____ sq. ft.

Electrical Requirements: _____

Plumbing Requirements: _____

Structural Changes Required: _____

Special Features Required: _____

Financial Data:

All applications MUST include a copy of the agency's operating budget, prepared in such a manner as is consistent with generally accepted accounting principles for public and governmental agencies. This data must be affixed to this application.

Note: The agency may be requires by the MOB Selection Committee to furnish additional information, including financial statements, as may be deemed appropriate.

Signature of Agency Representative or
Contact Person

Date

Mail this application to:

Director, Department of Administrative Services
City of Seattle
400 Yesler Building
Seattle, Washington 98104

###

If additional space is required to complete this application, please use plain 8½ x 11 paper and attached to this form.

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Exhibit D

MUTUAL AND OFFSETTING BENEFIT

LEASE AGREEMENT

PART A - SIGNATURE FORM

PARTIES

THIS LEASE AGREEMENT is entered into by and between THE CITY OF SEATTLE, a municipal corporation of the State of Washington, as Lessor, (hereinafter referred to as the "City") and

a nonprofit corporation organized under the laws of Washington and authorized to do business in the State of Washington, as Lessee (hereinafter referred to as "Lessee").

PREMISES

The City hereby leases to the Lessee and the Lessee hereby leases from the City all/or portion of the structure located on the following property:

the street address for which is _____,
which portion may be more particularly described as follows:

(hereinafter referred to as the "Premises").

USE/PURPOSE

The Premises shall be used and occupied only for the following purpose(s):

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TERM

The term of this lease begins _____, and expires _____, unless terminated earlier pursuant to the terms and conditions hereof.

RENT

In consideration for this Lease, the Lessee shall pay to the City or provide for the City's benefit, for the use and occupancy of the Premises, the following monthly rent:

(\$ _____), of which a portion, as further described in Part B, Subsection 9.A, hereof, shall be in the form of legal tender of the United States of America or negotiable instruments payable in the same and acceptable to the Director of Administrative Services. Any non-monetary portion of the rent shall be in the form of in-kind services that shall be agreed upon prior to the providing of the same. The services to be provided as a portion of any month's rent shall be described in the annual supplement(s) comprising Part C, hereof.

The "fair market improvements value" of the property of which the Premises form a part is (\$ _____), which figure shall be used in the computation of the minimum monetary portion of the rent payable during the first year of the term hereof, and following the annual adjustment provided for in Part B, Subsection 9.C, hereof, for the succeeding years of the term of this Lease.

Under no circumstances shall in-kind services in excess of the value the Lessee becomes obligated to provide in any particular year be usable as an offset to the minimum monetary rental due and payable for any year of the Lease term, or as an offset to any services to be provided by the Lessee in any succeeding year of the Lease term.

INSURANCE

The Lessee shall secure and maintain insurance to protect the City from liability as more fully described in Part B, Subsection 4 of this Lease, which insurance shall provide the following minimum coverage:

\$ _____	Bodily injury, per person.
\$ _____	Bodily injury, per occurrence.
\$ _____	Property damage, per occurrence.

UTILITIES

Notwithstanding the provisions in the first sentence of Part B. Section 3. Utilities, the City, at its sole expense, shall provide the following:

The City shall not be responsible for any costs incurred in modifying the systems therefor that are occasioned by the Lessee's requirements.

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AGREEMENT CONTENTS

This lease consists of this Part A - Signature Form, plus Part B - General Terms and Conditions, and the annual supplements hereto that comprise Part C - Description of M.O.B. Lessee's Services in Lieu of Cash Rental, all of which, by this reference, are incorporated herein. This Lease embodies the entire agreement of the parties hereto. There are no other understandings or agreements, written or oral, between the parties relating to the subject matter hereof.

EFFECTUATION OF AGREEMENT

In order to be effective, this Lease must be (1) signed by an authorized representative of the Lessee and returned to the City at the address set forth below, accompanied by any required evidence of insurance, and (2) signed by the Mayor pursuant to ordinance authority.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures below:

THE CITY OF SEATTLE
LESSOR

By _____
Mayor

ATTEST:

By _____
City Comptroller

City's address for all
communications:

Property Management Section
Department of Administrative Services
Fifth Floor
400 Yesler Building
Seattle, WA 98104
(until otherwise notified)

LESSEE

By _____
(Name)

(Title)

By _____
(Name)

(Title)

Lessee's address for all
communications:

(until otherwise notified)

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STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that CHARLES ROYER and NORWARD J. BROOKS signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the MAYOR and CITY COMPTROLLER, respectively, of THE CITY OF SEATTLE to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

Notary Public in and for the State of
Washington, residing at _____

My appointment expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF)

On this _____ day of _____, 19____, before me personally appeared _____ and _____ to me known to be _____ and _____ of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand the day and year first above written.

Notary Public in and for the State of
Washington, residing at _____

My appointment expires _____

MUTUAL AND OFFSETTING BENEFIT

LEASE AGREEMENT

PART B - GENERAL TERMS AND CONDITIONS

1. LIMITATION ON USE/PURPOSE

Notwithstanding any other provision herein, the Lessee shall not enter into any sublease of the Premises or any portion thereof or any assignment of any interest in this Agreement, whether long or short term in nature, or engage in any activity with respect to or on the Premises other than that expressly authorized herein, without obtaining the prior explicit written authorization therefor from the City.

2. POSSESSION

In the event of the inability of the City to deliver possession of the Premises, or any portion thereof, at the time of the commencement of the term of this Lease, neither the City nor any of the City's officers, employees, or agents shall be liable for any damage caused thereby, nor shall this Lease thereby become void or voidable, nor shall the term herein specified be in any way extended, but in such event, the Lessee shall not be liable for any rent until such time as the City can deliver possession.

3. UTILITIES

The Lessee, at the Lessee's sole expense, shall provide or shall otherwise pay for, when due, all costs for providing all utilities and other services on or to the Premises including but not limited to elevator service, electricity, gas, water, telephone, sewer, garbage, heating, janitorial, security, and grounds keeping, and shall also pay all charges for utility installation and modifications thereto occasioned by the Lessee's requirements. The City shall not be liable for any injury, loss or damage caused by or resulting from any interruption or failure of said services due to any causes whatsoever except the City's negligence. The Lessee shall not be entitled to an offset, reduction, or return of rental as a result of any interruption or failure of said services.

4. LIABILITY

A. Indemnity: The Lessee shall indemnify and hold the City harmless from any and all losses, claims, actions, damages and expenses arising out of or resulting from any occurrence in or on the Premises. In the event that any suit based upon such losses, claims, actions, damages, or expenses is brought against the City, the Lessee, upon notice of the commencement thereof, shall defend the same at its sole cost and expense; and if final judgment be adverse to the City, or the City and the Lessee jointly, the Lessee shall promptly satisfy the same. The liability described in this subsection shall not be diminished by the fact, if it be a fact, that any

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such death, injury, damage, loss, cost or expense may have been contributed to, or may be alleged to have been contributed to, in part, by an act or omission of the City, its officers, employees or agents; Provided, that nothing contained in this subsection shall be construed as requiring the Lessee to indemnify the City against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole act or omission of the City, its employees, officers, or agents.

B. Insurance: The Lessee shall secure and maintain during the full term of this Agreement, at no expense to the City, insurance by one or more companies authorized to do business in the State of Washington, as follows:

(1) A policy of fire and extended coverage, vandalism, malicious mischief, and special extended coverage insurance providing coverage of not less than eighty percent (80%) of the full replacement value of the Premises, including improvements made thereto, and the contents, with no allowance for depreciation, under which policy the City shall be named as an additional insured, as follows:

"The City of Seattle is an additional insured for all coverages provided by this policy of insurance and shall be fully and completely protected by this policy for any claim, suit, damage or loss of any sort sustained by any person, organization, or corporation and arising out of a covered occurrence under this policy. The coverages provided by this policy to the City or any other named insured shall not be terminated, reduced or otherwise changed in any respect without providing written notice thereof to The City of Seattle, Department of Administrative Services, Property Management Section, 400 Yesler Building, Fifth Floor, Seattle, WA 98104, at least thirty (30) days prior to the effective date thereof."

All losses under the policy shall be adjusted jointly by the Lessee and the City. Any loss paid under such insurance to the Lessee shall be held by the Lessee in trust for application to the cost of rebuilding, repairing, replacing, or restoring the Premises; and the City shall be paid such portion of the insurance proceeds as is equal to the true value of the Premises including all improvements made thereto as of the expiration or termination date specified in Part A, hereof, whichever is earlier (excluding removable trade fixtures and personal property), assuming no damage or loss other than normal wear and tear had occurred. Such payment shall be made to the City within seven (7) days after receipt by the Lessee of the insurance proceeds.

(2) A primary policy of general comprehensive liability insurance, under which (a) the City shall be named as an additional insured in the following manner:

"The City of Seattle is an additional insured for all coverages provided by this policy of insurance and shall be fully and completely protected by this policy for any claim, suit, injury, death, damage or loss of any sort sustained by any person, organization or corporation in connection with activity upon or use or occupancy of the Premises, as well as any activity performed by the principal insured therein.

"The coverages provided by this policy to the City, or any other named insured, shall not be terminated, reduced or otherwise changed in any respect without providing written notice thereof to The City of Seattle, Department of Administrative Services, Property Management Section, 400 Yesler Building, Fifth Floor, Seattle, WA 98104; at least thirty (30) days prior to the effective date thereof."

(b) Liability limits shall be at least the amounts set forth in Part A of this Lease; Provided, that in the event the Director of Administrative Services deems such insurance to be inadequate to fully protect the Lessee and the City, the Lessee shall increase said liability limits to such amounts as the Director of Administrative Services shall deem reasonably adequate to provide said protection, which increase shall be completed within sixty (60) days after the date of notice that the Lessee's insurance is deemed to be inadequate.

(c) Coverage shall include, but not be limited to, the following types (described in insurance industry terminology):

- (1) Premises Operations Liability;
- (2) Blanket Contractual Liability;
- (3) Broad Form Property Damage;
- (4) Independent Contractor;
- (5) Automobile Liability for owned, leased, hired or non-owned, if there will be any use of vehicles on the Premises by or on behalf of the Lessee;
- (6) Products and/or Completed Operations;
- (7) Personal Injury, Coverages A, B, and C (Exclusion "C" to be removed).

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C. Contractor's Insurance and Bond: The Lessee shall require each contractor used by the Lessee to perform any demolition or construction work in connection with any improvement, alteration, or addition to be made to the Premises, to secure and maintain, at no cost to the City, the following:

(1) A contract bond or performance bond payable to the Lessee and the City in the full and just sum of the total amount of the contract, conditioned that all the provisions of the contract shall be faithfully performed by the contractor, or the surety if so required, and indemnifying the Lessee and the City against any direct or indirect damages that shall be suffered or claimed for injuries to persons or property during the carrying out of the work of the contract, and conditioned as required by law for the payment of all laborers, mechanics, subcontractors and materialmen, and all persons who shall supply such person or persons or subcontractors with provisions or supplies for the carrying on of such work.

(2) A policy of primary comprehensive general liability and automobile liability insurance with \$1,000,000 Combined Single Limits per occurrence and annual aggregate, providing the following coverages:

- Premises/Operations Liability (N & C);
- Owners and Contractors Protective Liability;
- Products and Completed Operations Liability;
- Blanket Contractual Liability;
- Broad Form Property Damage Liability;
- Personal Injury, including coverages A, B, and C;
- Stop Gap or Employers Contingent Liability;
- Explosion, collapse, underground damage (referred to as "X, C, U");
- Automobile Liability, including coverage for owned, non-owned, leased or hired vehicles.

and under which insurance The City of Seattle shall be named an additional insured in the same manner as that specified in Subsection 4.B(2) (a), hereof.

D. Evidence of Insurance: A copy of such policy(ies) and all endorsements thereto or other evidence to the reasonable satisfaction of the Director of Administrative Services that the Lessee has secured and is maintaining insurance as required by this section shall be delivered to the Property Management Section at the address specified in Part A, hereof, on or before the effective date of this Lease, and shall be delivered thereafter within five (5) City business days after the Lessee's receipt of a

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written request therefor, for review by the City Attorney and the City's Risk Manager, and filing with the City Clerk. In the event that the "ACORD" form of a Certificate of Insurance is submitted, it will be returned for correction if it does not comply with the following:

The wording at top of form: "This certificate is issued as a matter of information only and confers no rights upon the certificate holder." - Shall be deleted in its entirety.

The wording at bottom of form: "Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail thirty (30) days written notice to the below named certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company." - Shall be changed to read - "Should any of the above described policies be cancelled, reduced as to coverage, or otherwise changed before the expiration date thereof, the issuing company will provide written notice of such action to the below named certificate holder/City of Seattle at least thirty (30) days prior to the effective date of such change or cancellation."

E. Assumption of Risk: The placement and storage of personal property on said Premises shall be the responsibility, and at the sole risk, of the Lessee.

F. Adjustments of Claims: The Lessee shall provide for the prompt and efficient handling of all claims for bodily injury, property damage or theft arising out of the activities of the Lessee under this Lease. The Lessee shall ensure that all such claims, whether processed by the Lessee or Lessee's insurer, either directly or by means of an agent, will be handled by a person with a permanent office in the Seattle area.

G. Termination upon Lessee's Failure to Comply with Requirements: Notwithstanding any provision herein to the contrary, the failure of the Lessee to comply with the provisions of this section shall subject this Lease to immediate termination without notice and without recourse by any person in order to protect the public interest.

5. USES AND CARE OF PREMISES

A. General Condition: The Premises shall at all times be kept in a neat, clean, safe and sanitary condition, and kept and used in accordance with the laws of the State of Washington and Charter and ordinances of The City of Seattle, and in accordance with all authorized rules and regulations of the Health Officer, Fire Marshal, Director of Construction and Land Use and other appropriate officers of The City of Seattle at the sole cost and expense of the Lessee. The Lessee shall not permit any waste, damage, or injury to the Premises; use or permit on said Premises anything that will increase the rate of fire insurance thereon; maintain anything on the Premises that may be dangerous to life or limb; overload the floors; permit

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any objectionable noise or odor to escape or to be emitted from said Premises; permit anything to come done upon said Premises that in any way will tend to create a nuisance or, in the event of multiple occupancy, to disturb any other tenants of the building; or to use or permit the use of said Premises for lodging or sleeping purposes.

B. Maintenance-Repairs: The Premises have been inspected by both parties and are accepted by Lessee in their existing condition as of the commencement date of this Lease, without reservation except for latent defects or faulty construction of the Premises not discoverable by inspection at the time of taking possession. All normal repairs to roof, walls and foundations, existing utility connections to and from the Premises and major electrical, plumbing, and heating systems necessary to maintain the Premises in a tenantable condition shall be done by or under the direction of the City and at the City's expense, except repair work necessitated by an act or omission of the Lessee, or any of the Lessee's officers, employees, agents or invitees, which repairs shall be made at the sole expense of the Lessee. All other maintenance and repairs to the Premises shall be the responsibility and at the sole expense of the Lessee; Provided, that such maintenance and repairs shall be subject to the prior written approval of and shall be undertaken at the direction of the City.

C. Alterations:

(1) The Lessee shall not make, or cause to be made, any alteration, addition or improvement in said Premises without first obtaining the written consent of the Director of Administrative Services for such work. All alterations, additions and improvements made shall be at the sole cost and expense of the Lessee, and shall become the property of the City, and unless otherwise agreed in writing by the Director of Administrative Services, shall remain in and be surrendered with the Premises as a part thereof at the expiration or termination of this Lease, without disturbance, molestation or injury.

(2) The City reserves an unqualified right to make alterations to the Premises or to the building in which the Premises are situated (a) where conditions deemed by the Director of Administrative Services to constitute an emergency exist, or (b) in order to correct Code-deficiencies. The City also reserves the right to make general alterations to the Premises or to the building in which the Premises are situated where such general alterations will not unreasonably interfere with the ordinary operation of the Premises by the Lessee.

D. Access: The City reserves for itself, its officers, employees, agents and contractors, free access to said Premises at all reasonable times for the purposes of inspecting, cleaning, or making repairs, additions or alterations to the Premises or any other property owned by or under the control of City, but this right shall not be construed as an agreement on the part of the City to make said inspections, clean or make repairs, additions or alterations. The Lessee shall have reasonable access to other property of the City where necessary to provide utility services to or make

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repairs, alterations, additions, or improvements to the Premises; all of the Lessee's work on such other City property shall be at the Lessee's sole expense.

E. Signs: The Lessee shall not display, inscribe, paint or affix to any part of the Premises any sign except such as shall have been approved in writing by the Director of Administrative Services prior to such placement. The City shall have the right to place and maintain "For Rent" signs in conspicuous places on said Premises and to show the Premises to prospective tenants during the thirty (30) days prior to the expiration of this lease.

F. Keys: Any change in locks must be requested, in writing, by the Lessee and approved by the Director of Administrative Services prior to installation. Said lock change shall be at the sole expense of the Lessee. If a lock change is approved, Lessee shall provide the Director of Administrative Services with one (1) key for each lock changed immediately after such change has been completed.

G. Equipment; Personal Property: Special purpose equipment and all major appliances such as dishwashers, stoves, refrigerators, washers, and dryers located on the Premises shall be maintained and repaired by the Lessee at no cost to the City.

6. DAMAGE OR DESTRUCTION

In the event the Premises are damaged by fire, earthquake, act of war, or other extraordinary casualty, to such an extent as to render the same untenable in whole or in substantial part thereof, or are destroyed, it shall be optional with the City to repair or rebuild the same; and within forty-eight (48) hours after the happening of any such event, the Lessee shall give the City or City's agent notice thereof. The City shall have not more than sixty (60) days after the date of such notification to notify the Lessee of the City's intentions to repair or rebuild said Premises, or any part so damaged. If the City elects to repair or rebuild said Premises, the City shall prosecute the work of such repairing or rebuilding without unreasonable delay, in accordance with the then existing City procedures, and during such period the rent for said Premises shall be abated in the same ratio that the portion of the Premises rendered for the time being unfit for occupancy bears to the whole of the Premises; upon the completion of said rebuilding, the Lessee shall immediately reoccupy the Premises and pay the rent as aforesaid. In the event the building in which the Premises are located shall be substantially destroyed or damaged even though the Premises shall not be damaged thereby, if in the opinion of the Director of Administrative Services it shall not be practical to repair or rebuild, then it shall be optional with the City to terminate this Lease by providing notice of termination to the Lessee within sixty (60) days after such damage or destruction has been determined to be irreparable. If the City fails to give the Lessee timely notice of the City's intentions, as provided in this section the Lessee shall have the right to declare this Lease terminated by providing notice to the City of such termination prior to the effective date thereof.

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Notwithstanding any other provision herein, no party to this Lease shall be liable in damages to any other party for termination of this Lease in the manner described in this section, because of the damage or destruction of the Premises or the building in which the Premises form a part.

7. SUSPENSION OF LESSEE'S OPERATIONS AND OBLIGATIONS TO PAY RENT

In the event any City inspection, repair, alteration, addition, or improvement work necessitates the temporary suspension of the Lessee's business or operations in, on or from the Premises for a period of thirty (30) days or less, the City shall notify the Lessee of such necessity and the anticipated beginning and ending dates of such suspension. The rent due the City shall be prorated during each month in which the Lessee's business or operations are required by the City to be suspended pursuant to this section, and the obligation of the Lessee to pay such prorated rent shall be cancelled during the period that the Lessee's business or operations are suspended. Such cancellation of the obligation to pay rent shall constitute the totality of relief provided hereunder, and the Lessee waives all claims for damages and for any injury to and interference with its operations or business and losses occasioned by any such suspension.

8. COMPLIANCE WITH LAW

A. General Requirement: The Lessee, at its sole cost and expense, shall perform and comply with all applicable laws of the United States and the State of Washington; the Charter and ordinances of The City of Seattle; and rules, regulations, orders, and directives of their administrative agencies and the officers thereof.

B. Licenses and Similar Authorizations: The Lessee, at no expense to the City, shall secure and maintain in full force and effect during the term of this Agreement, all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.

C. Taxes: The Lessee shall pay, before delinquency, all taxes, levies, and assessments arising from its activities on or occupancy of the Premises, including, but not limited to taxes arising out of the activity or business conducted on the Premises such as the rental or sale of goods or services; taxes levied on its property, equipment, and improvements on the Premises; and taxes on the Lessee's interest in this Agreement and any leasehold interest deemed to have been created thereby under Ch. 82.29A RCW. In the event the State of Washington makes any demand upon the City for payment of leasehold excise taxes resulting from the Lessee's occupation of the Premises or withholds funds due to the City to enforce collection of leasehold excise taxes, the Lessee shall, at its sole expense, contest such action and indemnify the City for all sums expended by, or withheld by the State from, the City in connection with such taxation.

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D. Nondiscrimination and Affirmative Action.

(1) The Lessee agrees to and shall comply with all Federal, State and local laws and ordinances prohibiting discrimination with regard to race, color, national origin, ancestry, creed, religion, political ideology, sex, sexual orientation, marital status, or the presence of any sensory, mental or physical handicap.

(2) In the event the Lessee has three (3) or more employees, the following provision shall be deemed a part of this lease:

"During the performance of this Lease, the Lessee agrees as follows:

"The Lessee will not discriminate against any employee or applicant for employment because of creed, religion, race, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental, or physical handicap unless based upon a bona fide occupational qualification. The Lessee will take affirmative action to ensure that applicants are employed, and that employees are treated during the employment without regard to their creed, religion, race, color, sex, national origin or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause. The Lessee will take affirmative action to ensure that all of its employees, agents and subcontractors adhere to these provisions; Provided, nothing herein shall prevent an employer from giving preference in employment to members of his/her immediate family.

"The Lessee will, upon the request of the Director (as used herein, Director means the Director of the City's Human Rights Department, or his/her designee) furnish to the Director on such form as may be provided therefor, a report of the affirmative action taken by the Lessee in implementing the terms of this provision, and will permit access to the Lessee's records of employment, employment advertisements, application forms, other pertinent data and records requested by the Director for the purpose of investigation to determine compliance with this provision.

"If, upon investigation, the Director determines that there is a probable cause to believe that the Lessee has failed to comply with any of the terms of this provision, the Lessee shall be so notified in writing. The contracting authority shall give the Lessee an opportunity to be heard after ten (10) days' notice. If the contracting authority concurs in the findings of the Director, it may suspend or terminate this Lease and evict the Lessee in accordance with law.

"Failure to comply with any of the terms of this provision shall be a material breach of this Lease."

The foregoing provision will be inserted in all subleases entered into under this Lease.

(3) Women's and Minority Business Enterprise Utilization:

(a) Reference: The provisions of Seattle Ordinance 109113 (Women's and Minority Business Enterprise Utilization Ordinance), as amended, are hereby incorporated by reference and made a part hereof as if fully set forth herein.

(b) Compliance: During the term of this Agreement, the Lessee shall:

1. Continue to make every effort to utilize MBEs and WBEs;
2. Require every subcontractor utilized by the Lessee for work in fulfillment of the Lessee's obligations under this Lease, to make every effort to utilize WBEs and MBEs; and
3. Maintain records reasonably necessary for monitoring compliance with the provisions of Ordinance 109113, as amended.

Any substitutions for or other failure to utilize the WBEs or MBEs projected for use in this Lease on the commitment forms must be approved in writing by the Seattle Human Rights Department and the Director of Administrative Services.

Inasmuch as the Seattle Human Rights Department is authorized and empowered by Ordinance 109113 to monitor compliance with the Lessee's Women's and Minority enterprise utilization commitment during the term of this Lease, the Lessee shall furnish to such department within a reasonable time after a request has been made for the same, whatever reports or other information is reasonably necessary to determine compliance.

The failure of the Lessee to comply with applicable provisions of the Women's and Minority Business Enterprise Ordinance (Seattle Municipal Code Ch. 20.46 - Ordinance 109113, as amended) shall be a material breach of contract.

9. RENT CALCULATION AND PAYMENT PROCEDURE

A. Lessee shall pay a portion of the annual rent in legal tender of the United States of America, which portion shall in the first year equal twenty percent (20%) of the sum of (a) two and one-half percent (2.5%) of the cost of one position of "Real Property Agent" or its successor, as computed in Part B, Subsection 9.B., hereof, plus (b) two and one-half percent (2.5%) of the then-current fair market improvements value of the property of which the Premises form a part (as specified in Part A, hereof, and as adjusted in accordance with Part B, Subsection 9.C., hereof); 40% of said sum in the second; and 50% in the third and subsequent years.

B. "Costs of a Real Property Agent's position": The cost of a Real Property Agent's position shall be computed by multiplying the sum of 1,513 chargeable hours by the then-prevailing hourly rate for such position or its successor, as published in the Department of Administrative Services' annual Rate & Services Directory or its successor; Provided, that the City reserves the right to modify, annually or more frequently, such rate or the number of chargeable hours as deemed appropriate by the Director of Administrative Services; Provided, further, that under no circumstances shall the Lessee be charged a higher rate than that established for City departments that desire to obtain property management services from the Department of Administrative Services or its successor.

C. "Fair Market Improvements Value": For the first year of the Lease term, the fair market improvements value of the property of which the Premises forms a part shall be the most recent City-appraised value of such property. For the second and following years of the Lease term, such value shall be adjusted upwards by multiplying the preceding year's value by the sum of 100% and the percentage increase (if any) in construction costs associated with the type of building of which the Premises forms a part, as indicated by the BOECKH Index for the preceding year; Provided, that in the event the aforementioned index is discontinued, the parties hereto shall select another, similar index that reflects increases in building maintenance and construction costs.

D. Time and Place of Payment: The annual minimum monetary rental calculated as described in Part A and Part B, Subsections 9B & C, hereof, shall be prorated and paid on a monthly basis, in advance, on or before the first day of every month, without separate invoice from the City. All such payments shall be delivered or mailed to the City Treasurer, c/o Property Management Section addressed as specified for notices, pursuant to Section 14, hereof. In-kind services in lieu of monetary rent shall be provided according to the schedule included in the annual supplements(s) comprising Part C, hereof.

E. Delinquent Rent: Monetary rent shall be delinquent if not paid on or by the date specified in Part B, Subsection 9D, hereof. Delinquent monetary rent shall bear interest at a rate of Fifteen Percent (15%) per annum from the date of delinquency until paid. Services to be provided in lieu of monetary rent shall be delinquent if not provided according to the schedule(s) included in the appropriate annual supplement comprising a portion in Part C, hereof.

10. TERMINATION

A. For Breach by Lessee: In the event that the Lessee defaults in the performance of any of the terms, provisions, covenants and conditions to be kept, observed and performed by the Lessee, and such default is not corrected within thirty (30) days after the receipt of notice thereof from the City, or such shorter period as may be reasonable under the circumstances; or if the Lessee shall abandon, desert, vacate or remove from the Premises; or if the Lessee shall file a petition in bankruptcy; or if the Lessee shall be adjudicated as bankrupt after the filing of an involuntary petition in bankruptcy; or if the Lessee shall take or receive the advantage or benefit of any insolvency; or if the Lessee shall enter into an agreement of composition with the Lessee's creditors; then, in such event, the City, at its option at any time thereafter, may terminate this Lease together with all of the estate, right, and title thereby granted to or vested in the Lessee, by giving notice of such election at least twenty (20) days prior to the effective date thereof, and as of such effective date, this Lease and all of the estate, right, title and interest thereby granted to or vested in the Lessee shall then cease and terminate, and the City may re-enter the Premises using such force as may be required. Notwithstanding such re-entry by the City and anything to the contrary in this Lease, the liability of the Lessee for the rent provided for herein for the balance of the term of this Lease shall not be extinguished. The Director of Administrative Services shall have the right to determine on the City's behalf the existence of any default in performance or other breach or violation of the terms and conditions hereof on the part of the Lessee.

B. For Breach by City: The City shall not be in breach of any obligation to perform under this Lease unless the City fails to perform such obligation within a reasonable time, which time shall not extend more than thirty (30) days after notice by the Lessee to the City specifying the particular obligation that the City has failed to perform; Provided, however, that if the nature of the City's obligation is such that more than thirty (30) days are reasonably required for performance, then the City shall not be in breach if the City commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

C. Upon Notice by Lessee: This Lease may be terminated by the Lessee, without cause, by providing notice of such termination to the City not less than sixty (60) days prior to the effective date thereof.

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11. SURRENDER OF PREMISES

Upon the expiration or termination of this Lease, including any extensions thereof, whichever is earlier, the Lessee shall quit and surrender said Premises and all keys thereto, without notice and in as good condition as received at commencement of the term, except for changes due to ordinary wear and tear, damage or destruction by fire or other casualty or circumstances uncontrollable by the Lessee, and alterations, additions, and improvements made with the consent of the Director of Administrative Services. On or before the termination or expiration date, whichever is earlier, the Lessee shall remove all furniture, equipment, supplies and other materials owned and controlled by Lessee.

12. WAIVER OF DEFAULT

The City does not waive full compliance with the terms and conditions of this Lease by acceptance of rent. No waiver of default by either party of any of the terms, covenants and conditions hereof shall be construed or operate as a waiver of any subsequent default of any of the terms, covenants and conditions hereon.

13. AMENDMENTS

The parties hereto expressly reserve the right to amend this Lease, from time to time, as may be necessary; Provided, that no alteration or modification of the terms or conditions hereof shall be valid and binding unless made in writing and signed by an authorized representative of each of the parties hereto.

14. NOTICES

All notices to be given by either of the parties hereto to the other party, shall be in writing and may either be delivered personally or may be deposited in the United States Mail, postage prepaid, addressed as specified in Part A hereof, or to such other respective address as the receiving party shall have designated in writing. Notices sent by mail shall be deemed to have been given when properly mailed; the postmark affixed by the United States Post Office shall be conclusive evidence of the date of mailing.

15. NO RELATIONSHIP

In no event shall the City be construed or held to have become in any way or for any purpose a partner, associate, or joint venturer of the Lessee or any party associated with the Lessee in the conduct of the Lessee's business or otherwise. This Lease does not constitute the Lessee the agent or legal representative of the City for any purposes whatsoever.

16. DIRECTOR OF ADMINISTRATIVE SERVICES

The term "Director of Administrative Services" as used throughout this Agreement in regard to permission, warrant, consent, approval, rights, interpretation, and discretionary matters shall mean the Director of Administrative Services or his designee; Provided, that the action of the Director of Administrative Services pursuant to or in implementation of this Lease does not constitute any official action by any other City Department or official that may be required by law, ordinance, rule or regulation before the Lessee may rightfully commence, suspend, enlarge, or terminate any particular undertaking or may obtain or exercise any particular right or privilege under this Lease. Decisions to be made by the Director of Administrative Services shall be left to his/her reasonable discretion. Any approval, consent, or permission of the Director of Administrative Services required by this Lease shall not be unreasonably withheld.

17. ADJUDICATION

This Lease shall be construed under all of the applicable laws, statutes, ordinances, rules and regulations of the United States, the State of Washington, and The City of Seattle. In the case of a dispute between the parties, jurisdiction over such dispute shall be with the Superior Court of King County, Washington.

18. BINDING EFFECT

This Lease shall be binding upon the heirs, successors, assigns and all other parties legally empowered with signatory rights of any or all of the parties hereto.

19. INVALIDITY OF PROVISIONS

Should any term, provision, condition or other portion of this Lease be held to be inoperative, invalid or void, the same shall not affect any other term, provision, condition or other portion of this Lease, and the remainder of this Lease shall be effective as if such term, provision, condition or portion had not been contained herein.

Eff. Date 11/21/80

MUTUAL AND OFFSETTING LEASE AGREEMENT

PART C --- CONTRACT EXHIBIT

STATEMENT OF GOALS

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Eff. Date 11/21/80

M.O.B. Part C. - con't

CONTRACT EXHIBIT
PROGRAM PERFORMANCE STANDARDS

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Eff. Date 11/21/80

M.O.B. Part C. - con't

CONTRACT EXHIBIT

Budget

BASIS FOR COMPUTATION OF UNIT COST

Unit:

Unit:

APPROVED QUARTERLY PROJECT SPENDING RATE

The approved quarterly services delivery rate shall be established at \$ _____, and may exceed that amount by a maximum of 10% in the first three quarters without prior approval of the City. The annual amount of the delivered services usable as offset to rent is _____.

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ROUTING SLIP FOR REQUESTS FOR LEGISLATIVE ACTION

Originating Department _____

Date _____

Subject A RESOLUTION revising policies which govern Mutual and Offsetting
Benefit (MOB) Lease Agreements between the City and non-profit community and
social service agencies.

Date
Received

Date
Forwarded

OMB _____

Law _____

City Clerk _____

Legislation should be routed in the order listed.

ORD #1
Route

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**Your
Seattle
Department of Administrative Services**

George Pernsteiner, Director
Charles Royer, Mayor



June 16, 1987

REC'D OMB JUN 24 1987

836099

Sam Smith, President
City Council
City of Seattle

VIA: Jim Ritch, Budget Director

Dear Councilmember Smith:

SUBJECT: Resolution Revising Policies Governing Mutual and
Offsetting Benefit (MOB) Lease Agreements

Background

The current MOB guidelines were developed and implemented by the Department of Administrative Services (DAS) pursuant to Resolution 26209 (July, 1980). A basic tenet of the MOB policies is that fair market rent paid by the non-profit community and social service agencies for use of City property be partially in the form of services and partially in cash. The cash rent portion is based on a calculation of the City's administrative and major maintenance costs.

Resolution 26209 further stated that the cash rent paid by the tenants would equal 20% of the administrative and maintenance costs in the initial year of the MOB lease, 40% in the second, 60% in the third, 80% in the fourth and 100% in the fifth year and thereafter. The remainder of administrative and maintenance costs were covered by a General Fund appropriation.

The intent of phasing in the cash rent requirement was to allow the MOB tenants to develop other private fund sources. Unfortunately, as the cash rent payable has increased, other fund sources have diminished. At the same time, the tenant's operating costs have increased. The result for the MOB tenants has been an increasing financial burden and difficulty in continuing to provide services to the citizens of Seattle.

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S. Smith/G. Pernsteiner
June 16, 1987
Page 2

Proposed Revision of Cash Rent Requirement

The MOB tenants, the Executive and Councilmembers have discussed this matter with DAS and we have recently been asked to review the MOB policies and guidelines with the purpose of making revisions. The revisions would adhere to the basic intent of the MOB policies and would ensure that the valuable services that the MOB tenants provide are not jeopardized.

Various alternatives for revision of the cash rent requirement were considered but we concluded that the most straightforward and effective way to achieve that purpose would be to limit cash rent payable to 50% of administrative and maintenance costs. At the same time, the offsetting service requirement would increase. The revision would be effective at lease renewal for each of the tenants whose leases are administered under the current MOB guidelines--January 1, 1987 for CAMP, SPARC and Central Area Senior Center, and May 1, 1987 for Pioneer Group Home and First AME Child Development Center.

Cash rent payable is based partially on the value of the building, so the reduction would vary from tenant to tenant and would be proportional to the cost of operating each facility. The impact on each tenant's cash rent and services requirement is shown on Attachment 1.

General Fund Implications

The proposed revision would require a General Fund appropriation, as was the case in past years when the MOB tenant's cash rent obligation was less than 100% of those costs. The appropriation would be equal to 50% of the administrative and maintenance costs for each of the MOB facilities. The total requirement for 1987 would be \$23,880, as shown on Attachment 1.

Additional Revisions

In our application of the MOB Rules over the past several years, we have found that certain sections of the Rules are unclear. In addition, a recent Board of Ethics review of a proposed MOB Lease, while not finding fault with the program, indicated a need for clarification. Therefore, we propose revisions of Section III B of the Rules, regarding determination of a property's availability for MOB usage and of Section VI, Procedure for Leasing MOB Property.

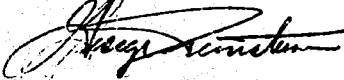
Upon adoption of the proposed resolution, DAS would amend the Rules Governing the City's Mutual and Offsetting Benefit (MOB) Properties, (revised language shown in attached MOB Rules). The Rule amendment would be made in accordance with the procedure required by the Seattle Administrative Code, and would provide an opportunity for public comment. Lease renewals for the MOB tenants would then be drafted and forwarded to City Council for approval, along with an appropriation ordinance.

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S. Smith/G. Pernsteiner
June 16, 1987
Page 3

We believe that the proposed policy revision would benefit the City and its citizens and respectfully request that the attached resolution be adopted at the earliest opportunity. My staff will be available if you would like any further information or have any questions regarding this matter.

Sincerely,



George Pernsteiner
Director

GP:mw:lir

Attachments

cc: Councilmember Benson	Councilmember Rice
Councilmember Galle	Councilmember Sibonga
Councilmember Kraabel	Councilmember Street
Councilmember Noland	Councilmember Williams

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City of Seattle

Executive Department-Office of Management and Budget

James P. Ritch, Director
Charles Royer, Mayor



OK
BB 10/21/87

September 24, 1987

The Honorable Douglas Jewett
City Attorney
City of Seattle

Dear Mr. Jewett:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING
DEPARTMENT: Department of Administrative Services

SUBJECT: A Resolution revising policies governing a mutual and offsetting benefit (MOB) lease agreement

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation directly to your office for review and drafting.

After reviewing this request and drafting appropriate legislation:

- (X) File the legislation with the City Clerk for formal introduction to the City Council as an Executive Request.
- () Do not file with City Council, but return the proposed legislation to OMB for our review. Return to _____.

Sincerely,

Charles Royer
Mayor

by

Clarence Ellsworth
for

JIM RITCH
Budget Director

JR/bf/ga

Enclosure

cc: Director, Department of Administrative Services

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Affidavit of Publication

City of Seattle

RESOLUTION 27712

A RESOLUTION revising policies which govern Mutual and Offsetting Benefit (MOB) Lease Agreements between the City and non-profit community and social service agencies.

WHEREAS Resolution 26700 established policies concerning MOB Lease Agreements; and

WHEREAS it is requested in Resolution 26700, the Executive has adopted standard operating procedures and promulgated rules for administration of MOB Lease Agreements; and

WHEREAS through use and occupancy of City property under MOB Lease Agreements, non-profit community and social service agency tenants provide services that benefit the citizens of Seattle; and

WHEREAS the cash rent requirements for lease of City property, as determined in accordance with current policies and the MOB Rules, has become an undue financial burden on the MOB tenants, limiting and/or jeopardizing their ability to continue providing services to the citizens of Seattle; Now, Therefore:

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE MAYOR CONCURRING:

The current policies regarding MOB Lease Agreements should be revised. The Council hereby requests that the Executive revise the MOB Rules in accordance with the following policy guidelines:

A. The cash rent payable by an MOB tenant in the first year of its MOB Lease Agreement shall equal twenty percent (20%), in the second year forty percent (40%) and in any year thereafter fifty percent (50%) of the City's administrative and major maintenance costs, as calculated according to the current MOB Rules.

B. There shall be an annual General Fund Appropriation to the Budget of the Department of Administrative Services equal to the remainder of the City's administrative and major maintenance costs.

C. The value of community services provided by an MOB tenant shall be, at a minimum, equal to the difference between the cash rent payable and the property's fair market rent.

ADOPTED by the City Council of The City of Seattle this 9th day of May, 1988, and signed by me in open session in authentication of its adoption this 9th day of May, 1988.

SAM SMITH,
President of the City Council
FILED by me this 16th day of May, 1988.
ATTEST: NORWARD J. BROOKS,
City Comptroller and City Clerk.
By: MARGARET CARTER,
Deputy.

THE MAYOR CONCURRING:
CHARLES ROYER,
Mayor.

Publication ordered by NORWARD J. BROOKS, Comptroller and City Clerk.
Date of publication, May 19, 1988.
(C-996)

STATE OF WASHINGTON KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

Resolution No. 27712

was published on May 19, 1988

Subscribed and sworn to before me on

May 19, 1988

Notary Public for the State of Washington,
residing in Seattle.

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